

Bay Delta Conservation Plan (BDCP)

Steering Committee Meeting

March 23, 2007, 9:00 a.m. to 12:00 p.m.

Resources Agency Bldg., Room 1131

Meeting Notes

Associated documents/handouts:

- Agenda
- BDCP Covered Activities (Draft document)
- Schedule for Development of BDCP Conservation Strategy (Table)
- Handout #1: Stressor Summary (Draft Stressors for Delta Smelt and Longfin Smelt by Conservation Theme [Summary from Handout #2]) (Draft document)
- Handout #2: Conservation Themes and Stressors (Pelagic Fish [Delta Smelt and Longfin Smelt]: Conservation Themes with Stressors, Impact Mechanisms, and Conservation Measure Concepts) (Working Draft Table)
- Updated Summary Scope for Development of BDCP Conservation Strategy (3/22/07 version)

Action Items and Key Decisions

- PRE Workgroup will meet before next Steering Committee (SC) meeting, and discussion of Covered Activities will continue at the next SC meeting with emphasis on defining existing operations
- Discussion of relationship between BDCP process and regulatory commitments will continue at next meeting
- Consultant will further develop Conservation Themes and Stressors tables, to include full complement of covered fish species, for presentation at Conservation Strategy Workgroup and Steering committee
- Consultant will continue to work with Science Workgroup and will develop list of scientific resources available relating to Delta

Introductions and Updates

- Delta Vision Blue Ribbon Task Force:
 - K. Scarborough coordinating regularly with John Kirlin (Delta Vision Executive Director) and Leo Winternitz (CALFED) on relationship among BDCP, Delta Vision, and CALFED; they met this week with Delta Vision Chair Phil Eisenberg, Director Lester Snow and Secretary Mike Chrisman on multi-program coordination.
 - Legislative floor hearing last week with presentations by Secretary Chrisman, Chair Eisenberg and PPIC.
 - K. Scarborough is preparing a 1-page summary of BDCP process for Governor Schwarzenegger
- CALFED is organizing a legislative tour of the Delta.

Review of Meeting Summaries

Members approved format and style of meeting summaries, and reviewed 2/23 summary.

No concerns were noted for 2/23 meeting summary. There was one factual question: the summary states that DRERIP models will be ready for use by June 2007. The member asked that Resources Agency double check that date. (Note: the June 2007 date was correct according to the presentation given by Denise Reed at BDCP on 2/23).

Presentation and Discussion of Schedule for Development of BDCP Conservation Strategy (Paul Cylinder- SAIC)

The Consultant presented the updated schedule, noting that the time scale in the table columns are not of equal duration. See attached documents for details on schedule and work products.

Under Items 4 and 5 members noted that the number of CSA's developed should not be pre-determined. There are currently nine in the "long list", which may expand before they are winnowed to a "short list", likely including two to four CSA's.

Under Item 5 several members noted the critical importance of independent science during development and analysis of CSA's both legally and for the integrity of the BDCP process. Members suggested that decision-making criteria for developing and choosing CSA's be documented. The Science Workgroup has convened and is moving quickly to address these issues (see Science Workgroup, below). Noted that independent science input would likely be provided on the short list of CSAs and was not necessarily needed to reduce the long list of CSAs.

Under Item 7, the Consultant clarified that the Covered Species list might expand from the 11 in the BDCP Planning Agreement, based on the impacts of Covered Activities and the impacts of the Conservation Measures associated with the selected Conservation Strategy.

There was extensive discussion about the role of BDCP development process and draft products in PRE's extending ESA and CESA regulatory assurances and/or commitments, including the timing of those commitments. The conversation was triggered by the Updated Summary Scope Item 11, which stated that the BDCP Framework Document, informally called the 75% document, would be used to support the extension of regulatory commitments with FWS, DFG, and NMFS. That language was struck from the document but no consensus was reached with respect to the process through which such commitments would be extended. The current regulatory commitments expire at the end of 2007, following a three-year extension. Several key points were made:

- DFG stated that BDCP is not the venue for near-term extension of assurances.
- NGO's stated that the current process of identifying and screening CSA's is not adequate for public agencies in the context of permitting, but that this process is iterative and will lead there.
- NGO's also noted that BDCP should be careful to avoid utilizing legal terms of art too early or inappropriately (e.g., Biological Goals Objectives and Screening Criteria may have regulatory definitions or connotations).

- FWS stated that the extension of regulatory commitments was conceived as falling under the CALFED Conservation Agreement Regarding the Multi-Species Conservation Strategy (Attachment 5, August 28, 2000, <http://calwater.ca.gov/Archives/GeneralArchive/rod/5.pdf>), and that under that agreement signatories additional to those involved in BDCP must participate in the extension of agreements.
- A recommendation was made to create a Regulatory Compliance Workgroup, but this action was not taken at this time.

This conversation will be continued at future meetings, and will likely be heavily informed by the assurances and permit process formulated consequent to the 3/23 Alameda Superior court decision *Watershed Enforcers v. Department of Water Resources* that found DWR lacking adequate CESA take permits for the Harvey O. Banks pumping facilities. This court decision was announced at the SC meeting.

Science Workgroup: Update and Discussion

Science Workgroup, chaired by Ann Hayden and Brent Walthall with coordination support from Cindy Darling, convened for its first meeting on 3/20. There was good attendance, with representatives from all regulatory agencies present. The Workgroup will meet several more times, but will not establish standing meetings.

See Science Workgroup Meeting Summary for further information on the 3/20 meeting.

At the Workgroup meeting, Paul Cylinder presented the NCCP Act requirements and HCP policy for incorporation of independent science. The members discussed the role of independent science process in other Delta planning processes (e.g., CALFED), possible management structures, and how to coordinate with Delta Vision and CALFED as soon as possible.

A subset of the Workgroup is working on names of possible lead scientists and panelists.

No decisions made by Steering Committee today on the recommendations.

The next Science Workgroup meeting will be held 4/5, 10 a.m. to 12 p.m. in Resources Bldg., Room 1131.

Recommendations to the Steering Committee:

- Independent Science Panel (ISP) be created, with a lead scientist familiar with policy process selected and facilitation/coordination from Resources Agency
- ISP should include, at a minimum, with flexibility for additional topical membership at any point:
 - Hydrologist
 - Geologist
 - Fisheries biologist
 - Water quality specialist
 - Ecologist

- Possibly a wildlife biologist for terrestrial species
- Biologists from technical sessions can help develop key questions for panel
- SAIC should undertake an inventory of available information about the Delta with which ISP members should be familiar.

Conservation Strategy (CS) Workgroup: Update and Discussion

The workgroup cancelled its 3/12 meeting, but met on 3/19 and was well attended. The Workgroup holds standing meetings from 12 p.m. to 3 p.m. on Mondays.

At the 3/19 meeting, two main topic areas were discussed:

1. Conservation Themes and Stressors. The Workgroup reviewed tables that were created by the SAIC Team and reviewed by biologists in technical sessions. Additional themes have been added since that meeting, and both pelagic and salmonid species tables are completed. Content and format feedback of those materials was received. Consensus that this was a good way to look at the information, good way to move forward.
2. Moving from “conservation themes” to measurable “draft conservation objectives”. The Workgroup directed SAIC to create a draft list of conservation objectives following from the current themes. There was some confusion among members about how ESA Biological Objectives would relate to draft Conservation Objectives, and whether BDCP process is far enough along to create objectives. Clarification was provided as to the difference between species-specific Biological Goals and Objectives as defined under FWS/NMFS 5-Point Policy and the broader Conservation objectives to be developed by the CS Workgroup.

Next steps for the CS Workgroup include further developing the Conservation Themes and Stressors tables to include levels of certainty, and developing draft Conservation Objectives based on the current Conservation Themes and Stressors information.

Covered Activities Workgroup

The PRE Covered Activities Workgroup, with membership from all of the PRE’s, has met several times to develop their list of Covered Activities. Craig Stevens, of the SAIC Team, is developing the work products, and Laura King Moon is helping facilitate the process.

Note that the presentation today was interrupted and cut short by breaking news about the DWR lawsuit. Discussion will continue at the next Steering Committee meeting.

There is not consensus among members on their definitions of existing operations or their goals with BDCP process. Some entities may want increased exports or permits for operating at peak pumping capacity. Metropolitan Water Authority stated that their goal was to ensure their current exports levels, not to increase.

To date, the members have not developed lists of projects due to the lack of consensus. They will continue to discuss their goals and definitions in order to dovetail the various interests and develop a final list of Covered Activities in the near future.

Public Comments

Jonas Minton (Planning and Conservation League): PCL and BDCP all want a healthy Delta as soon as possible. At the last meeting he noted that interim near-term actions are important. Two key points today: 1) the DWR case shows that the legal requirements for HCP and NCCP are important. BDCP must comply or the process will fail. 2) The role of independent science is critical. Also, he noted that short-term assurances are not going to be easy to make, let alone the 50-year assurances. PCL would like BDCP to consider whether 50-year assurances are realistic.

Dave Riggs. Contra Costa Water District (CCWD). Notes that Conservation Theme 1-6 mentions CCWD Agriculture diversions; they have already spent \$20M on screens for fish. Also noted that at the Interagency Ecological Program (IEP) meetings yesterday on Pelagic Organism Decline, there was nothing mentioned about fluctuating delta or increased salinity. CCWD wants to hear the scientific citation for recommendation for fluctuating delta if it is to be included in possible BDCP CSA's.

Next Meeting

Friday 4/6/07, same time and location.